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10/733,740	12/11/2003	Vinod Philip	2003P15291US	8395

7590

08/28/2006

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
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EXAMINER

ART UNIT PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/733,740	Applicant(s) PHILIP ET AL.	
	Examiner Katherine A. Bareford	Art Unit 1762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 30 June 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):


See Continuation Sheet.

Continuation of 10. Other (including any explanation in support of the above items): (A) As to Box 5 above, in the Final Rejection of 2/28/06, paragraphs 12 and 13, separate 35 USC 103 rejections were made of a) claims 14-15 and 17-19 and b) claims 16 and 20-21. These claims should not be grouped in the "Grounds of Rejection to be Reviewed on Appeal" as part of the 35 USC 103 rejection of claims 5 and 13 as being obvious over Longo '184 in view of Nagaraj or Longo '343 in view of Nagaraj (the Examiner notes that at page 5, line 3 of the Appeal Brief, the correct spelling is Nagaraj not Nagari). Rather, the rejections in paragraph 12 and 13 are separate rejections using, as to claims 14-15 and 17-19 the further reference of Japan 2002-275615, and as to claims 16 and 20-21, the further reference to Spitsberg. Therefore, the Grounds of Rejection to be Reviewed on Appeal should include

- (1) whether claims 1-4, 6-12, 22, 23, 25 and 26 are unpatentable under 35 USC 112,
- (2) whether claims 5 and 13 are unpatentable over 35 USC 103(a) as being obvious over Longo '184 in view of Nagaraj,
- (3) whether claims 5 and 13 are unpatentable over 35 USC 103(a) as being obvious over Longo '343 in view of Nagaraj,
- (4) whether claims 14-15 and 17-19 are unpatentable over 35 USC 103(a) as being obvious over either (i) Longo '184 in view of Nagaraj OR (ii) Longo '343 in view of Nagaraj, further in view of Japan '615 and
- (5) whether claims 16 and 20-21 are unpatentable over 35 USC 103(a) as being obvious over either (i) Longo '184 in view of Nagaraj OR (ii) Longo '343 in view of Nagaraj, further in view of Spitsberg et al.

Furthermore, (B) as to Box 6 above, the section of Appellant's Argument labeled "E" should not be placed at page 11 of the Appeal Brief as shown. It should be provided as a "subsection" of argument B at page 6 if it is intended to be a further argument as to the 35 USC 112 rejection of the claims, as further arguments as to dependent claims are supposed to be provided as a subsection of the arguments as to the independent claims. See discussion in MPEP 1205.02 (vii)

As to the section labeled "F", if these are related to the Grounds of Rejection labeled (4) and (5) above, the heading should be clarified as to this issue, as "each ground of rejection must be treated under a separate heading" (see MPEP 1205.02 (vii)) -- so two headings would be needed, each identifying the rejection referred to..


KATHERINE BAREFORD
PRIMARY EXAMINER